



August 14, 2020

Submitted via email and FOIAOnline

National Freedom of Information Officer
U.S. Environmental Protection Agency
hq.foia@epa.gov
<https://foiaonline.gov>

RE: Freedom of Information Act Request Regarding RCRA Interim Status Facilities

Dear Freedom of Information Officer:

This is a request for information pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the Environmental Protection Agency’s (“EPA”) FOIA regulations, 40 C.F.R. § 2.100, *et seq.*

Earthjustice requests a fee waiver for this request under 5 U.S.C. § 552(a)(4)(A)(iii) and 40 C.F.R. § 2.107.

I. Records Requested

This FOIA request seeks records concerning hazardous waste facilities that are currently categorized as “interim status” under section 3005(e) of the Resource Conservation and Recovery Act (“RCRA”) and corresponding regulations 40 C.F.R. part 270, subpart G, and 40 C.F.R. part 265. Specifically, we request:

- (1) any records identifying the name, location, and EPA Identification Number of all such RCRA interim status facilities, and the date each facility was designated as “interim status”;¹
- (2) any records concerning the types of operations conducted and hazardous wastes managed at current interim status facilities, including but not limited to, Part A permit applications submitted pursuant to 40 C.F.R. 270.13 and EPA Form 8700-12 notifications.

¹ A 2006 report from EPA’s Office of Inspector General notes that the Inspector General reviewed interim status facilities from EPA’s RCRAInfo database. *See* EPA Office of Inspector General, EPA’s Management of Interim Status Permitting Needs Improvement to Ensure Continued Progress (Dec. 4, 2006), <https://www.epa.gov/sites/production/files/2015-11/documents/20061204-2007-p-00005.pdf>. However, this information does not appear to be publicly available on that database or any other EPA source at this time.

- (3) Any records concerning noncompliance or environmental releases at any interim status facility from 2010 to present day.

We define “records” to include all data, analyses, studies, articles, correspondence (including emails, telephone messages, text messages, and internet “chat” or social media messages), letters, memoranda, reports, notes, notices, meeting notes, calendars, telephone logs, telefaxes, photographs, videos, maps, diagrams, and other records, whether paper or electronic.

In the event that any requested document is claimed exempt from disclosure, please identify each allegedly exempt record in writing, provide a brief description of that record, and explain the agency’s justification for withholding it. If a document contains both exempt and non-exempt information, please provide those portions of the document that are not exempted from disclosure. Finally, if a document does not exist, please indicate that in your written response.

We remind you that FOIA requires that you respond within twenty working days of your receipt of this request, pursuant to 5 U.S.C. § 552(a)(6)(A)(i) and 40 C.F.R. § 2.104(a). We ask that you disclose the requested information as it becomes available to you without waiting until all of the records have been assembled for the time period requested. To the extent responsive records are available in electronic format, we would prefer to receive electronic versions of the records. We also request that you provide the responsive records in electronic .pdf format without any “profiles” or “embedded files.” Please do not provide the records in a single or “batched” .pdf file.

II. Request for a Fee Waiver

We respectfully request that you waive all fees in connection with this request, as provided by 5 U.S.C. § 552(a)(4)(A)(iii) and 40 C.F.R. § 2.107(l).

- A. Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the federal government.

The subject of this request concerns the operations and activities of the federal government, specifically its regulation of hazardous waste facilities operating in interim status under RCRA. The requested information will increase the public’s understanding of the permitting status and operations of hazardous waste facilities, the use of the interim status designation, the risks associated with interim status facilities, and the extent and nature of EPA’s oversight of these facilities.

Earthjustice is a national nonprofit environmental law organization dedicated to protecting the magnificent places, natural resources, and wildlife of this earth, and to defending the right of all people to a healthy environment. One of Earthjustice’s top priorities is protecting the health and safety of communities exposed to toxic pollution. In light of its substantial legal and environmental expertise, Earthjustice is well-prepared to analyze and evaluate the records we receive pursuant to this request. In addition, Earthjustice has the ability to disseminate the information we obtain through FOIA requests to large segments of the public by means of correspondence, publications, websites that are visited by millions of people each year, educational programs and media initiatives, and other communications. The disclosure of the requested information will contribute significantly to the understanding of a broad public audience of persons interested in the subject.

- B. Disclosure of the requested information is not primarily in the commercial interest of the requester.

Earthjustice is a nonprofit, public interest organization with no commercial interest in obtaining the requested information. Earthjustice does not charge for its legal services, nor does it have any financial stake in the litigation it undertakes. Earthjustice has spent years successfully promoting the public interest through the development of policies that provide enhanced environmental protection. The public will be the primary beneficiary of this requested information because we have no commercial interest in the requested disclosure.

For all of the foregoing reasons, a fee waiver is warranted here under 5 U.S.C. § 552(a)(4)(A)(iii) and 40 C.F.R. § 2.107. If EPA does not believe that the above information is sufficient to justify a fee waiver, please contact us for further documentation before deciding upon the waiver request.

Thank you for your assistance processing this request. Please do not hesitate to contact me to clarify the request, or to otherwise expedite and simplify your efforts to comply.

Sincerely,

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